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TAGS: [ECON](#) [EINV](#) [EAGR](#) [IZ](#) [PGOV](#)
SUBJECT: INTERNAL IRAQI RESISTANCE TO THE NATIONAL
INVESTMENT LAW

REF: A. 09 BAGHDAD 844
[1](#)B. 09 BAGHDAD 976

Classified By: CLASSIFIED BY: ECON MIKE DODMAN FOR REASONS 1.4(B
D)

(C) SUMMARY: Since its passage in 2006, Iraq's National Investment Law (NIL) has attracted a great deal of attention from the international community, but inside Iraq, it has had little impact on the traditional centrally controlled model of the Iraqi economy. Neither the Ministry of Finance (MOF) nor the Ministry of Municipalities (MOM) -- which between them control the majority of state-owned land -- currently recognize the NIL and thus provincial investment commissions have been unable to act on behalf of investors to offer them land under the NIL's provisions. The ministries, refusal to recognize the NIL is indicative of the wide array of systemic challenges facing Iraqi economic development and evolution. Despite efforts by the Chairman of the National Investment Commission (NIC) to address the land issue via an amendment to the NIL, it is unlikely that any progress will be made soon, given the increasingly risk adverse political climate as the GOI prepares for the upcoming national elections in January of 2010. Post continues to work with GOI to advance this and other structural economic initiatives (See Reftel B) through the Strategic Framework Agreement (SFA). END SUMMARY

THE CONTEXT: THE NATIONAL INVESTMENT LAW AND THE LAND FOCUS

[1](#)2. (SBU) Passed in 2006, the NIL was intended to supersede existing legislation and provide a major set piece to an array of incentives aimed at improving the investment climate and attracting both Iraqi and foreign investors. (Note: the NIL can be found at www.investpromo.gov.iq. End Note.) One focal point of the NIL is the provision that permits Iraqi and foreign investors to rent (lease) lands for investment projects; a relatively new concept in the history of Iraq, which for generations prior to the overthrow of Saddam Hussein, had been dominated by an increasingly autocratic and centrally controlled economic structure. Land leases (and sales), when they did occur, were largely executed on the basis of political patronage and power sharing. The NIL approach to land leasing, therefore, represents a significant departure from traditional Iraqi economic models.

MINISTERIAL RESISTANCE TO THE INVESTMENT LAW

[1](#)3. (C) From the outset, the NIL and its incumbent land issue provisions have met resistance from within the GOI itself. The largest single landholder in Iraq is the MOF, which holds an estimated 70% of all land. Likewise, the MOM controls another 10-15%, much of it the large tracts of valuable land for investment, close to major cities and markets across Iraq. Provincial Investment Commission (PIC) members have repeatedly told us that officials from both the MOF and MOM

say that their ministries "do not recognize the NIL" and would not be able to allocate the land requested by the PIC for its individual investors to lease. Furthermore, GOI officials mentioned that the typical message from provincial MOF or MOM officials is "until I receive written notification from my Minister, I can do nothing." -- the NIL,s provision notwithstanding. Note: The 1986 Law #200 for selling and renting state possessions outlines the disposition of land from the state to others and was not, to our understanding, cancelled in the 2006 investment law, thus creating further confusion in the implementation. End Note.

¶4. (SBU) The NIC and the PIC's have issued over 85 investment licenses since their formation, however very few of them have actually moved into an execution phase. While the reasons for the low level of execution can be in part attributed to the global economic slowdown, continued security concerns, and general investor caution regarding Iraq's overall stability, the most recurrent theme heard from the provinces continues to be unresolved land use issues.

THE NATIONAL INVESTMENT COMMISSION TO THE RESCUE?

¶5. (SBU) The acting chairman of the NIC, Dr. Sami Al Araj, has injected new life into the overall investment arena since taking the helm earlier this year. (Reftel A) An energetic and charismatic leader, Al Araj has recently focused on the land aspects of the NIL with respect to a proposed amendment that would legalize and provide a mechanism for foreign ownership of Iraqi Land. However, it is important to note that Al Araj has not been confirmed as NIC chairman, nor is the NIC a cabinet level office within the GOI executive

branch, thus the NIC finds itself on unequal footing in the realm of Iraqi political power. Although rightly focusing his time of late at the Council of Representatives (COR) advocating for the amendment to the NIL, Al Araj is not focused on deconflicting its existing issues. While an intelligent political operator, Al Araj's influence does not come close to the political power of the Minister of Finance or Municipalities, and prospects for his moving the ball forward on the land issue at any level remain slim without the support of MOF, MOM, and a majority of the COR. This challenge for Al Araj must also be viewed within the context of the upcoming national elections which make any meaningful economic reform measure that much more unlikely to progress.

COMMENT

¶6. (C) The challenges associated with improving Iraq's overall investment climate are numerous and have historical and political associations that make them even more difficult to address within the context of Iraq's slowly evolving political system. That said, bringing clarity to the NIL on the specific issue of land lease would be an important step for the GOI to take to improve the ability to do business in and with Iraq, and would also be a useful example of progress to highlight at the scheduled fall investment conference in Washington. Through the Strategic Framework Agreement and with direct working level contacts, post continues to work with the GOI at the executive, legislative and judicial levels to address the NIL land issues as well as our concerns for Iraq's overall economic development.

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